

AMENDED IN SENATE APRIL 22, 2004

AMENDED IN SENATE APRIL 1, 2004

AMENDED IN SENATE MARCH 30, 2004

SENATE BILL

No. 1569

Introduced by Senator Dunn

February 19, 2004

An act to add Section 1393.3 to the Health and Safety Code, relating to health care service plans.

LEGISLATIVE COUNSEL'S DIGEST

SB 1569, as amended, Dunn. Aggrieved providers: remedies.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. The act requires that a contract between a plan and a provider contain provisions requiring a fast, fair, and cost-effective dispute resolution mechanism and that reimbursement of a complete claim, which is neither contested nor denied, be made within a designated time period.

This bill would authorize an aggrieved provider, as defined, to bring an action against a health care service plan that violates a provision of the act relating to ~~contracting or~~ claims processing or payment.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1393.3 is added to the Health and Safety
2 Code, to read:

1 1393.3. (a) If a health care service plan violates any provision
2 of this chapter relating to ~~contracting or~~ claims processing or
3 payment, an aggrieved provider may bring an action against that
4 ~~plan to recover damages and to obtain other appropriate relief,~~
5 ~~including costs and attorney's fees. The remedies under this plan~~
6 *to recover contract damages and statutory interest and penalties*
7 *and, if appropriate, to obtain injunctive relief. If a court*
8 *determines that the health care service plan acted without*
9 *reasonable justification, the court, in its discretion, may award the*
10 *aggrieved provider costs or reasonable attorney's fees, or both.*
11 *The remedies under this section shall be in addition to, and not in*
12 *derogation of, all other rights and remedies that an aggrieved*
13 *provider may have under any other law.*

14 (b) For the purposes of this section, an “aggrieved provider”
15 means a physician and surgeon licensed pursuant to Chapter 5
16 (commencing with Section 2000) of Division 2 of the Business and
17 Professions Code or an osteopathic physician and surgeon licensed
18 pursuant to the Osteopathic Initiative Act or a lawfully organized
19 group of those physicians and surgeons or osteopathic physicians
20 and surgeons who meets one of the following conditions:

21 (1) Contracts directly with the plan alleged to be in violation of
22 this chapter.

23 (2) Contracts directly with an entity that contracts directly with
24 the plan, the aggrieved provider has provided services to the plan's
25 enrollees on or after January 1, 2005, and the entity has either
26 become insolvent or has not for a period of six months paid all
27 claims.

28 (3) Has provided emergency medical services covered under an
29 enrollee's plan contract to the enrollee of a plan alleged to be in
30 violation of this chapter and has exhausted all administrative
31 remedies required under this chapter.

32 ~~(c) An aggrieved provider who meets the conditions described~~
33 ~~in paragraph (2) or (3) of subdivision (b) may bring an action~~
34 ~~against the plan alleged to have violated this chapter only with~~
35 ~~respect to payment for the disputed claim or claims.~~

36 ~~(d)~~

37 (c) If the aggrieved provider is a shareholder, employee,
38 partner, or contractor of a lawfully organized group practice and
39 does not contract directly with the health care service plan or the
40 entity that directly contracts with the health care service plan, the

1 action may be filed only by the group practice and not by its
2 shareholders, employees, partners, or contractors.

3 (d) *An aggrieved provider may not maintain a cause of action*
4 *pursuant to this section if the claim in dispute concerns a service*
5 *that is excluded as a covered benefit from the terms and conditions*
6 *of the health care service plan contract or is a disputed health care*
7 *service for which independent medical review has been requested*
8 *but not yet completed pursuant to Article 5.55 (commencing with*
9 *Section 1374.30).*

10 (e) Nothing in this section shall be construed *to negate a*
11 *contractual requirement between a plan and an aggrieved*
12 *provider relating to the exhaustion of administrative remedies or*
13 *to revise or expand the scope of practice of a provider or to revise*
14 *or expand the types of providers who are authorized to submit*
15 *claims to, and contract with, a health care service plan.*

